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DEPT FOR AF/W, INR/AA
DOE FOR CAROLYN GAY

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TAGS: [PGOV](#) [KDEM](#) [NI](#)

SUBJECT: NIGERIA: KOGI GOV. UNSEATED, NEW POLLS WITHIN 90
DAYS

Classified By: Political Counselor Walter Pflaumer for reasons 1.4. (b
& d).

11. (C) SUMMARY: For the first time in Nigeria's history, a governorship election will be rerun. The Abuja Court of Appeals upheld the earlier decision of the Election Tribunal in Kogi State (located in the Middle Belt, near Abuja) and annulled the election of Governor Ibrahim Idris (of the ruling People's Democratic Party -PDP). According to the court, a new election must be held within 90 days. The Speaker of the Kogi State House of Assembly (also PDP) was sworn in as acting governor, but his own election is also in danger of being overturned soon. If that happens, another Speaker will be elected, who would then become Kogi's second acting Governor. The course of events in Kogi may set a precedent for other upcoming gubernatorial by-elections and for a potential presidential by-election. Unfortunately, the by-election in Kogi will be conducted by the same INEC officials responsible for the massively flawed April 2007 general elections, so there is no evidence it will be run any better the second time around. END SUMMARY.

12. (U) On February 6, the Court of Appeal in Abuja confirmed the October 10, 2007 decision of the Kogi State Election Tribunal to annul the election of Governor Ibrahim Idris (PDP) on the grounds that opposition candidate Prince Abubakar Audu (All Nigerian People's Party, ANPP) had been wrongfully excluded from the ballot during the April 2007 gubernatorial election. The court has ordered that a fresh election be held within 90 days (no later than May 5, 2008), though a spokesman for the Independent National Electoral Commission (INEC) told the media that the body plans to hold the polls within 45 days. President Yar'Adua, through his official spokesman Segun Adeniyi, called on all parties to accept the verdict in good faith, asked the police to maintain order in the state, and ordered the immediate swearing-in of the Speaker of the Kogi State House of Assembly as acting Governor. The Presidency felt the need to make a statement, according to Adeniyi, because the Appeals Court had not issued instructions about who was to take power pending the by-election. Adeniyi explained that according to Nigeria's constitution (section 191, subsection 2), the Speaker becomes acting Governor in the event the office becomes vacant.

13. (U) Chief Clarence Olafemi (PDP), Speaker of the State House of Assembly, was sworn in as Kogi's acting Governor on February 6. Interestingly, his own election may soon be

annulled. The Kogi State Election Tribunal nullified his election in September 2007, but their verdict is still pending appeal. Judgement in the appeal is scheduled for February 28. If Olafemi's own election is also struck down, the Kogi Assembly will have to elect a new Speaker, who would then become the state's second acting Governor.

¶4. (C) COMMENT: Civil society, the Nigerian Bar Association, and opposition parties are lauding the courts for their decision in Kogi. The judiciary seems increasingly capable and willing to flex its muscle and to play a real role in Nigerian politics and democracy. It is promising that the Presidency called for immediate implementation of the court's ruling (even though it was unfavorable to his party), that an acting Governor was inaugurated, and that Kogi has remained calm as the state (as well as the country) navigates uncharted political waters. Kogi is setting an important precedent for other upcoming gubernatorial appeals and for the eventual verdict of the Presidential Election Tribunal. Unfortunately, the by-election in Kogi (due within 90 days), and those in other states if ordered, will be conducted by the same INEC officials responsible for the massively flawed April 2007 general elections, so there is no evidence it will be run any better the second time around.
END COMMENT.
SANDERS